

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
November 13, 2014**

Approved 12/18/2014

Minutes

The Meeting of the Town of Kinderhook Planning Board was held on Thursday, November 13, 2014, beginning at 7:02pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The meeting was called to order by the Chairwoman, Mary Keegan-Cavagnaro. The roll was taken by the Secretary.

A. Roll Call

Present:

Mary Keegan-Cavagnaro, Chairwoman
Andy Howard, Town Attorney
Patrick Prendergast, Engineer
Peter Haemmerlein
Chris Simonsen
William Butcher
Jake Samascott
Dale Berlin
Jason Graham
Guy Rivenburgh
Daniel Weiller
Nataly Dee, Secretary

Excused:

None

Absent:

None

B. Correspondence

1. Review of Minutes:

July 10, 2014 – Workshop
July 17, 2014 – Meeting
August 14, 2014 – Workshop
August 21, 2014 – Meeting
September 11, 2014 – Workshop
September 18, 2014 – Meeting
October 9, 2014 – Workshop tabled
October 16, 2014 – Meeting tabled

A motion to approve the minutes from the July, August and September meetings was made by Mr. Simonsen. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; minutes approved.

The minutes from the October meetings were tabled pending further review.

C. Public Hearings

1. 7:05pm - Robert & Maryanne Broderick/Lawrence & Patricia Cavagnaro, 3 Rose Street, Niverville – Minor Subdivision;

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Ms. Keegan-Cavagnaro recused herself. Mr. Haemmerlein took over as Vice-Chair.

The secretary read the notice announcing the public hearings as it appeared in the newspaper of record on November 1, 2014.

Mr. Lawrence Cavagnaro approached the board and reviewed the proposal for a minor subdivision on Rose St in Niverville. The particulars of the project were described for the board and the public.

A motion to open the public hearing was made by Mr. Samascott. Motion seconded by Mr. Simonsen. All in favor. Motion carried; hearing opened.

The public was invited to address the board. There was no one in attendance to speak in favor or opposed to the project.

A motion to close the public hearing was made by Mr. Samascott. Motion seconded by Mr. Butcher. All in favor. Motion carried; hearing closed.

The State Environmental Quality Review (SEQR) was reviewed by the Attorney:
Part II: Impact Assessment of the EAF (Short Environmental Assessment Form).

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no or small impact.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact.*
7. Will the proposed action impact existing:
 - a. public / private water supplies? *Proposed answer is no or small impact.*
 - b. public / private wastewater treatment? *Proposed answer is no or small impact.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact.*

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If the board is in agreement with the proposed answers they could issue make a motion to issue a negative declaration under SEQR. That motion was made by Mr. Simonsen. Motion seconded by Mr. Berlin. All in favor. Motion carried; negative declaration issued.

The board considered the application. It was noted that the applicant submitted a letter of approval from the Department of Health regarding the septic and well. Additionally, approval was received from the Highway Department regarding the curb cut.

If plans stamped by the surveyor were submitted the project would be deemed complete and ready for approval. A motion to conditionally approve the application pending submission of plans stamped by the surveyor was made by Mr. Butcher. Motion seconded by Mr. Simonsen. All in favor. Motion carried; application conditionally approved.

Fees in the amount of \$250 are to be submitted upon stamping of the plans.

Ms. Keegan-Cavagnaro returned to the board.

2. 7:15pm - Valatie Rescue Squad, 35 Route 9H Ramp, Valatie, NY – Minor Subdivision/Lot
Line Adjustment on Rod and Gun Club Road;

A motion to open the public hearing was made by Mr. Haemmerlein. Motion seconded by Mr. Simonsen. All in favor. Motion carried; hearing opened.

Mr. LaTorre, President of the Rescue Squad, addressed the board and reviewed the proposal for the board and the public. He submitted letters of approval from the adjoining property owners regarding the setback adjustment.

Ms. Keegan-Cavagnaro invited the public to speak.

Veronica Mangoni: Sought clarification on the project and the process of approval. Additionally, she inquired about the zoning of the area. Would Site Plan Review require a study of road access, etc?

The use would still conform to the zoning regulations. It was also stated that if the applicant wanted to do anything further they would need to return to the board for site plan review.

Chuck Dayter: Could a rescue squad have a house on the property? Additionally, he inquired about the location of the Gun Club and the tree line on the west side of the property.

Mr. Howard explained that in a residentially zoned area the proposed theoretical future use would be allowable. He also noted what the VRS has indicated in previous meetings. Further, he spoke about the allowable uses as per the code.

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Mr. Robert Cramer: He recalled it was approved as a Conservation Subdivision. However, there is no mention of that in the minutes. It was noted that the conservation subdivision law was not enacted until after the approval of the original subdivision and as such was not enforced at that time. He recommended that the board consider preventing any future subdivision.

Valerie Bertram: Inquired about any restrictions on the property.

A discussion about the setbacks as noted on the original subdivision plans ensued. It was noted that the setbacks would revert to meet the current regulations of the code.

A motion to close the public hearing was made by Mr. Berlin. Motion seconded by Mr. Simonsen. All in favor. Motion carried; hearing closed.

Board discussion of the application ensued.

It was requested that the land areas of the adjoining lots be listed on the plans. Plans also need to be signed by the surveyor. The issue of the previous approval listing 150' setbacks was addressed. Letters were submitted from the adjoining land owners regarding their approval to have the set backs adjusted to meet current code regulations. The current plans if approved would have set backs in line with the current code.

Mr. Weiller inquired whether this land was sold again the new owner would have to return to the planning board for approval of their proposal. They would.

It was noted that if neighbors have any objections at this time or in the future they have the opportunity to voice their concerns and objections to the board. Veronica Mangoni stated that she is not in favor stating that nothing positive will come of it. She was of the opinion that modifications would have to be made to the road if any further development were approved.

Claudette Roetina: She stated that she respects the rescue squad and all that they do. However, she is uncomfortable with the speed of the road and safety. Any increased traffic would reduce property values.

The State Environmental Quality Review (SEQR) was reviewed by the Chairwoman:
Part II: Impact Assessment of the EAF (Short Environmental Assessment Form).

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact. No new lots created.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no or small impact. No new lots created.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no.*

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5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact may occur.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no.*
7. Will the proposed action impact existing:
 - a. public / private water supplies? *Proposed answer is no.*
 - b. public / private wastewater treatment? *Proposed answer is no.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact may occur.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no.*

If the board is in agreement with the proposed answers they could issue make a motion to issue a negative declaration under SEQR. That motion was made by Mr. Berlin. Motion seconded by Mr. Samascott. All in favor. Motion carried; negative declaration issued.

The board considered the application. The changes requested to the plans are minor. A motion to conditionally approve the application pending submission of plans with revisions as stated and stamped by the surveyor was made by Mr. Samascott. Motion seconded by Mr. Graham. All in favor. Motion carried; application conditionally approved.

Fees in the amount of \$350 to be submitted upon stamping of the plans.

D. Old Business

1. Tim Sullivan, 84 Ottoville Road, Niverville – Minor Subdivision;
Referred to ZBA;
2. Napa Auto Parts, Route 9 – Site Plan Review for Additional Building ;

No one was in attendance to represent this application.

E. New Business

1. CaroVail Fertilizer, 831 County Road 28, Niverville – Site Plan Review;

Brian Harrington of CaroVail addressed the board. He stated that they have purchased the land and building adjacent to their existing facility located on Main St, Niverville. They are here to present their proposal and get guidance and feedback from the board. The building in question is a corrugated warehouse building currently unused. They would like to remove the existing building while trying to preserve as many of the materials as possible, and construct a building to be used as a plant nutrient

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facility. This would all allow them to split and expand their current operation, what they call their bulk nutrient facility. It would allow them to be more efficient as they could then conduct bagging and bulk activity at the same time. There is the potential to create 2-5 new permanent jobs and help improve the aesthetics of the area. Landscaping would be done between the two buildings and to create a buffer from the road. It would alleviate some of the logistical challenges they now face.

Mr. Butcher asked Mr. Harrington if the proposed building would be similar to what currently exists. Mr. Harrington said essentially it would be. Ideally it would be a 55' x 120' building which is roughly the same footprint of the existing building. Most recently, the building was used as a warehouse.

The zoning of the lot and surrounding area was discussed. Was the non-conforming use grandfathered in? And, if so, what are the implications to the current proposal? It was noted that they would lose the grandfathered standing if the building was entirely removed. In that event, a portion of the building may have to remain intact. If it is determined to be in the Hamlet. The parcel was determined to be in the B1 Zone. Does the business and use conform to farm related business? The board referred to the use table and discussion ensued. The proposal would require site plan approval.

The applicant noted that the current structure would not be able to support the type of work that would transpire within, use of forklift, etc. The applicant also noted that the current facility would be used for bagging and the new facility would be used for bulk, noting that much of the loading of vehicles would occur at the rear of the building. Egress from the building would be approximately where Church, Main, and Lake Sts. intersect which would allow for good visibility of traffic. Mr. Prendergast suggested the applicant draw up a survey map and show what is existing and what they are proposing.

Mr. Howard asked the applicant to describe what specifically would go on in the building. Mr. Paul Nelson, facility manager, stated that there would be nothing different from what they are doing now, that they would like to keep their current plant as a bagging facility and the new plant would be for bulk. He stated that their business has grown and they see this as an opportunity to facilitate the operation. Mr. Howard asked if that would be bulk storage or would there be production involved. Mr. Nelson responded that material would be blended and loaded from the facility. Nothing new is added to the materials during the blending process. Materials come in to the facility, they are blended, and reloaded for transport. Mr. Simonsen read from the code regarding agriculture, not including the keeping of fowl or farm animals in compliance with Section 250-19 (J): the processing and storage of agricultural products including packing, warehousing, and storing is permitted. The use table was referenced again. This is an example of agricultural blending rather than production. This is not an example of a fertilizer plant. They are not making anything and not adding anything to the previously manufactured products. It was determined that the use would be allowed under the code.

They were advised to submit an application for a Site Plan Review. They need to submit a survey map showing setbacks and CSX right-of-ways. They should show what's existing and what they want to do. They were advised to carefully examine the setbacks. The setback regulations were reviewed; 50' front, 35' side, 25' rear. If they proposed to breach these distances, they may need to seek an area variance from the Zoning Board. It was noted that 50% would need to be maintained in order to continue the grandfathered status of non-conforming use. Mr. Howard read from the code: if a structure, containing a non-conforming use is damaged or destroyed to the extent that more than 50% of the cost of

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replacement any reuse of the structure must meet all requirements. Mr. Haemmerlein read from the code: normal maintenance and repair of a structure containing a non-conforming use is permitted as long as long as the structure is not enlarged, added to, or use intensified. Lot coverage and the possibility of merging the lots were also addressed. The location of an elevator was also discussed. Mr. Nelson stated that if there would be one it would be located at the rear of the building and may not be seen from the road at all.

F. ZBA Opinions

None.

G. Liaisons

1. Village Planning Boards: Nothing new to report.

2. Town Board: Mr. Haemmerlein reported that there was a Public Hearing for the Local Law 1 of 2014 and a vote was taken on the law. The law passed in a vote of 4-1.

3. NYSEG Project: Nothing new to report.

H. Other

1. Public Comment

A Motion to adjourn was made by Mr. Simonsen. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; meeting adjourned at 8:30pm.

Respectfully submitted,

Nataly Dee, Secretary